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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,874	11/06/2001	Cole M. John	KOL-10-5565	7654
27422	7590	03/08/2004	EXAMINER	
DRIGGS, LUCAS, BRUBAKER & HOGG CO. L.P.A			NGUYEN, DINH Q	
DEPT. KOL			ART UNIT	
8522 EAST AVENUE			PAPER NUMBER	
MENTOR, OH 44060			3752	

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

09/992,874

Applicant(s)

JOHN ET AL

Examiner

Dinh Q Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-27 is/are allowed.
- 6) ☒ Claim(s) 28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Imai et al.

Imai discloses 4 nozzle assemblies 26 for descaling a continuously strip of metal S, they are divided into pairs of nozzle assembly, each pair covering half surface of the strip metal S with the centerline at L1 as shown in figure 4, each of the nozzle assembly is designed to swing around an axis to adjust the spray width of the nozzle assembly with the width of the metal strip and further to provide a position in which the maintenance and inspection can be done on the nozzle assembly without shutting down the production line as disclosed in column 2, lines 1-37 and column 8, lines 27-37 and also shown in dotted lines in figure 4. Therefore, it would have been obvious to one having ordinary skill in the art to configure the nozzle assemblies of Imai in such away that could provide the production line with operational continuously by maintain one nozzle assembly in each pair of nozzle assembly in an operation position and the other nozzle assembly in an maintenance position. Doing so would provide an effective production line without downtime on the equipments.

Allowable Subject Matter

3. Claims 1-27 are allowed.

Response to Arguments

4. Applicant's arguments filed December 30, 2003 have been fully considered but they are not persuasive.

5. Applicant's arguments with respect to claim 28 have been considered but are moot. The Imai et al. patent teaches the concept of placing the nozzle in an inspection and maintenance position without shutting down the production line (column 2, lines 32-37). It is within one skilled in the art and of an obvious matter choice to have an array of nozzles on an operation position and the other array of nozzles on an maintenance position to limit the down time of the production line. Claim 28 is an apparatus claim, but the language of the claim is of a process claim with functional recitations and intended use recitations. Therefore, the functional recitations and the intended use recitations of the claim such as "moveably mounted for repositioning to a maintenance station" or "moveably mounted for repositioning to spray"; "normally position to spray" or "normally position in a maintenance station" have not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be express as a "means" for performing the specific function, as set forth in 35 USC 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be

employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitations.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q Nguyen whose telephone number is (703) 305-0248. The examiner can normally be reached on Monday-Friday 6:30-4:00 alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dinh Q Nguyen
Primary Examiner
Art Unit 3752

dqn